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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,992	02/06/2004	Michael A. Vidal JR.	13251-2	7115

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EXAMINER

SANDY, ROBERT JOHN

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,992

Applicant(s)

VIDAL, MICHAEL A.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed on 9/27/2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/01/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office action is responsive to the communication filed on 27 September 2004.

- Claim 10-13 were canceled.
- Claim 14 was amended.
- Claims 1-9 and 14-20 are pending
- Claims 1-9 and 15-20 each have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 27 September 2004.

Specification

On page 1 of the application, in the first paragraph following the title of the invention, the sentence "This is a continuation application claiming priority from co-pending U.S. Patent Application No. 09/864,519, filed May 23, 2001." should be updated to read as - - This is a continuation application claiming priority from co-pending U.S. Patent Application No. 09/864,519, filed May 23, 2001, now U. S. Patent No. 6,732,411. - -

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Wright (U. S. Patent No. 3,817,521). Wright ('821) discloses a hand-held instrument (i.e., "tennis racket") comprising: a business end (35); a handle (77, see Figs. 1-8) attached to the business end, the handle having a gripping portion (11) and a longitudinal axis (axis along the longitudinal length of the gripping portion of the handle) a thumb spur (structure including thumbstop 19, 63, screw 29, 83, and strap 13, 79) being provided at the gripping portion of the handle, the thumb spur being disposed such that it projects away from the handle in a direction transverse to the longitudinal axis of the handle; and a chrysalis (structure defined by portions 21, 15, 67 and 31,

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or 65, 81, 67 and 85), the chrysalis being wrapped around the gripping portion of the handle and being secured to the handle by the thumb spur (via straps 13, 79 and screw 29, 83).

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman (U. S. Patent No. 5,529,357, cited by applicant). Hoffman ('357) discloses a hand-held instrument (2) comprising: a business end (see Figs. 3A, 3B, 6A-6C, etc.); a handle (4) attached to the business end, the handle having a gripping portion and a longitudinal axis, a thumb spur (structure of 40, including 44, 46, 48, 60, 62 and 64; see Figs. 1A- 1D) being provided at the gripping portion of the handle, the thumb spur being disposed such that it projects away from the handle in a direction transverse to the longitudinal axis of the handle; and a chrysalis (structure of 20, 24 in same figures), the chrysalis being wrapped around the gripping portion of the handle and being secured (via clamping means 60, 62, 64) to the handle by the thumb spur.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ROBERT J. SANDY
PRIMARY EXAMINER**

Robert J. Sandy
Primary Examiner
Art Unit 3677